

REMARKS

Claims 1-6 are now pending in this application and are rejected. Claims 1, 2, and 4-6 are amended herein to clarify the invention and to address matters of form unrelated to substantive patentability issues. New claim 7 is added herein to further distinguish over the cited art.

Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. §102(b) as being anticipated by Tsuchiya (Japanese Publication Number 2002-042753).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The applicants respectfully traverse and alternatively assert that the claims as amended overcome the anticipation rejections.

Tsuchiya fails to disclose holding frames that provide spaces around the connection terminals at the ends of the battery. Tsuchiya states in the abstract that “[a] battery holding part 36 to match with an outer peripheral part of the battery 20 is formed on outer edge parts 32, 34 of a battery holder 30.” Furthermore, as shown in Figure 2 of Tsuchiya, at the cross section A-A of the

battery holder (30), there is no space provided between the battery terminals (22) and the battery holder (30). Thus, in Tsuchiya, the battery holder (30) edge part (32) is specifically designed to fit together with the terminals (22) and provides no space around the terminals (22) for connection to the channel of cooling air. In contrast, the present invention provides space within the holding frames (3) around the connection terminals (7a) and (7b) at the ends of the battery (2). This allows the cool air running through the distributing space (10a) and the collecting space (10b) to cool the connection terminals (7a) and (7b). Therefore, claims 1, 2, 4 and 5 are not anticipated by the cited reference because the structural limitation of the space around the terminals is not found in the cited reference.

Please note that the structural limitation of the space around the terminals was added to claim 1, but was in claims 2 and 5 as previously presented. The amendments to claims 2 and 5 were made to more clearly define the spaces as well as address other formal matters.

In regard to claims 2 and 5, the cited art does not disclose a holding frame with a rectangular cross section that intersects the top side and side faces of the holding frame. In Tsuchiya, a cross section as defined in the claims is a plane that perpendicularly intersects lines A-A and B-B as shown in Figure 1 of

Tsuchiya. In that plane it is clear that the cross section shape of Tsuchiya is “I” shaped and not rectangular. When a plurality of Tsuchiya’s battery holders (30) are arranged in parallel to form a battery pack, wasted space is produced at both ends of the battery pack. In contrast, the holding frames (3) of the present invention eliminate such wasted space when arranged in parallel. Therefore, claims 2 and 5 are not anticipated by the cited reference because the structural limitation of a rectangular cross section that intersects the top side and side faces of the holding frame is not found in the cited art. Please note that the claims previously recited the cross section shape but have been amended simply to clarify the identity of the cross section.

Claims 3 and 6 are rejected under 35 U.S.C. §103(a) as obvious over Tsuchiya in view of Masuda (Japanese Publication Number 2002-042753).

MPEP §2126.01 states that “[t]he date .. [that a foreign] patent is available as a reference is generally the date that the patent becomes enforceable.”

Alternatively, the effective date of a foreign patent is the date on which it becomes a printed publication.

The Masuda reference is only a patent application and not an enforceable patent. Therefore, Masuda’s effective date as prior art is the date of publication

April 4, 2003. The present application has a priority date of June 17, 2002. In order to perfect the priority date of the present application, applicants enclose herewith a verified English translation of the priority document and a verification of the English translation of the PCT International stage application. Thus, applicants respectfully traverse the rejection of claims 3 and 6 because Masuda is not a valid prior art reference.

Applicants respectfully request a two month extension of time for responding to the Office Action. The fee of \$460 for the extension is provided for in the charge authorization presented in the PTO Form 2038, Credit Card Payment form, provided herewith.

If there is any discrepancy between the fee(s) due and the fee payment authorized in the Credit Card Payment Form PTO-2038 or the Form PTO-2038 is missing or fee payment via the Form PTO-2038 cannot be processed, the USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit any excess payment to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
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enc: Form PTO-2038;
Verified Translation of priority application;
Translator's Verification of priority application translation;
Translator's Verification of translation of the International Stage PCT specification.

Docket No. F-8424

Ser. No. 10/511,482

APPENDIX I